

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



July 13, 2004

TO: ALL PARTIES OF RECORD IN APPLICATION 03-07-032

Decision 04-07-038 is being mailed without the Dissent of Commissioner Loretta Lynch.
The Dissent will be mailed separately.

Very truly yours,

/s/ ANGELA K. MINKIN
ANGELA K. MINKIN,
Chief Administrative Law Judge

ANG:rar

Decision 04-07-038

July 8, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Southern California Edison Company
(U 338-E) for Approval of a Power
Purchase Agreement under PUHCA
Section 32(k) Between the Utility and a
Wholly-Owned Subsidiary and for
Authority to Recover the Costs of Such
Power Purchase Agreement in Rates.

Application 03-07-032
(Filed July 21, 2003)

ORDERING MODIFYING DECISION 04-03-037
AND DENYING REHEARING OF THE DECISION, AS MODIFIED

I. INTRODUCTION

In Decision 04-03-037, we approved changes to a Power Purchase Agreement between Southern California Edison (SCE) and Mountainview Power Company, LLC (MVL) required by FERC in its *Order Conditionally Accepting Proposed Rate Schedule and Revising Affiliate Policy*, Docket No. ER04-316-000, 106 FERC ¶ 61,183 (Feb. 25, 2004). We found that the changes ordered by FERC in that order and agreed to by the parties will not have any significant detrimental impact on ratepayers. In this order, we add further findings in support of that conclusion, and deny the Navajo Nation's request for rehearing of the Decision and for further proceedings.

II. DISCUSSION

The Navajo Nation contends that our conclusion that the FERC-required changes will have only a minimal impact on rates is unsupported by the record or by adequate findings, in violation of Public Utilities Code §§ 1757 and 1705. Specifically, the Navajo Nation argues that there is no evidentiary support for the conclusion that all but one of the FERC modifications to the PPA should have no potential rate impact. It

also argues that the straight pass-through of O&M charges could have significant rate impacts. (Application, pp. 2-3.) Navajo Nation argues that additional hearings and further review are necessary to resolve these issues. (*Id.*, p. 2.) We disagree.

We acknowledge, of course, that Public Utilities Code section 1705 requires separate findings on all issues material to our decisions. The purpose of this requirement is to enable parties, the public, and the reviewing court to understand the basis for the decision and to “help the Commission avoid careless or arbitrary action.” (*See, e.g., Los Angeles v. Public Utilities Com.*, *supra*, 7 Cal. 3d at 337 [citations omitted].) In the decision at issue, we concluded that the FERC-ordered changes to the PPA have “only minimal timing impact on rates” and “do not create any detrimental rate impacts for Edison customers” (Finding of Fact No. 5 and Conclusion of Law, p.6.) As discussed in the body of the Decision, that conclusion was based on two more specific findings: (1) only one of the FERC-required changes could have a rate impact, and (2) that change, regarding how O&M costs are billed to SCE, will have only a minimal impact on rates. In the body of the Decision we explained one basis for the second conclusion:

The change requires Edison to bill actual recorded costs, instead of forecasting costs and then having a true-up to recorded costs. Fixed O&M costs are forecast by Edison to be \$7.6 million, and variable O&M costs are forecast to be \$2.6 million. A significant portion of the fixed costs cover staff and labor—costs that should not vary much from forecasted costs to actual costs, and not more than 10-15% in any year. Based on the forecasts, the overall impact on PPA charges would be in the order of \$1 to 1.5 million out of the \$142 million estimated for the PPA charges for 2007.

(Decision, p. 5.) Contrary to the Navajo Nation’s assertions, our conclusion that the O&M change will not create significant or detrimental rate impacts for Edison customers is based on record evidence, including the estimates discussed above, which were provided by SCE. The Navajo Nation does not contend that these estimates are unreliable, nor does it suggest any reason why there would be a significant difference in

O&M costs using the forecast-and-true-up method as opposed to the straight pass-through of actual costs method.

Additional support for our conclusion that the FERC-required O&M change will not create any detrimental rate impacts for SCE customers can be found in FERC's order, which is also part of the record in this proceeding. (See Attachment A to the Decision). That order explains that in FERC's view, billing based on actual O&M costs is more likely to result in just and reasonable rates than billing based on forecasted rates. (*See Order Conditionally Accepting Proposed Rate Schedule and Revising Affiliate Policy, supra*, ¶ 36.) Although we believe the rate impact of the different methodology is unlikely to be significant, if FERC is correct on this point, ratepayers are better off with the actual-cost method of billing.

In its application for rehearing, the Navajo Nation does not state any reason why any of the other FERC-required changes could have a significant impact on rates, and we see none.

We have considered the Navajo Nation's remaining contentions, and conclude that they too lack merit.

Therefore **IT IS ORDERED** that:

Decision shall be modified as follows:

1. On page 6, Finding of Fact No. 5 shall be revised to state:

Only one of the FERC-ordered changes could have a discernible rate impact: the change regarding the method for billing O&M costs.
2. The following Findings of Fact shall be added:
 6. In Order 106 FERC ¶ 61,183, FERC found that the straight pass-through method of billing O&M costs is more likely to result in just and reasonable rates than the forecast method.
 7. The impact of this change is not likely to be significant, but any rate impact is more likely to be beneficial than detrimental to ratepayers.

3. Rehearing of Decision 04-03-037, as thus modified, is denied.

This order is effective today.

This proceeding is closed.

Dated July 8, 2004 at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

I will file a dissent.

/s/ LORETTA LYNCH
Commissioner